TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1888.

No. ~~1458~~. 1056

JOSEPH BRYAN, PLAINTIFF IN ERROR,

vs.

THE STATE OF VIRGINIA.

IN ERROR TO THE SUPREME COURT OF APPEALS OF THE STATE OF VIRGINIA.

FILED DECEMBER 26, 1888.

SUPREME COURT OF THE UNITED STATES.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, DECEMBER 27, 1888.

1 VIRGINIA:

Pleas before the supreme court of appeals, held in the city of Richmond on Thursday, the 6th of December, 1888.

Be it remembered that heretofore, to wit, on the 30th July, 1888, came Joseph Bryan, by counsel, and filed his petition, praying for a writ of error and supersedeas to a judgment rendered by the circuit court of the county of Henrico on the 8th of May, 1888; which petition, with the transcript of the record accompanying the same, is as follows:

Petition.

In the Supreme Court of Appeals of Virginia, Richmond.

BRYAN *vs.* COMMONWEALTH.

To the honorable judges of the supreme court of appeals of Virginia:

Your petitioner, Joseph Bryan, would respectfully represent that he is aggrieved by a judgment pronounced against him by the circuit court of Henrico county on the 8th day of May, 1888. Your petitioner presents herewith a transcript of the record of said judgment, which will show the following case:

Your petitioner was sued under the act of May 12th, 1887, in said court for taxes due said State, and he pleaded that he had tendered her over due tax-receivable coupons to her proper collecting officer in payment thereof, which he was then and always had been ready to deliver to her.

Issue was taken on this plea, and because your petitioner was not able to produce the bonds from which said coupons were cut the court ruled out all his evidence and a verdict was found against him. Your petitioner complains of this action of the court as error, and he prays for a writ of error and reversal of said judgment.

PETITIONER,
By Counsel.

I, Wm. L. Royall, counsel practicing in the supreme court of appeals for the State of Virginia, certify that in my opinion there is error in the judgment complained of in the foregoing petition, for which it should be reversed.

WM. L. ROYALL.

2 Writ of error awarded with supersedeas. Bond required in the penalty of $100, conditioned as the law requires.
July 30th, 1888.

B. W. LACY.

To the clerk of the supreme court of appeals at Richmond.

Transcript of Record.

VIRGINIA:

Pleas at the court-house of the county of Henrico, before the circuit court of the said county, on Tuesday, the 8th day of May, 1888.

Be it remembered that heretofore, to wit, at a circuit court begun and held for the county of Henrico, at the court-house, on Monday, the 7th day of May, 1888, came the Commonwealth of Virginia, by her attorney, and filed the following notice of motion:

In the Circuit Court of Henrico County, Virginia.

To Joseph Bryan:

Take notice that on the 7th day of May, 1888, in accordance with the statutes in such cases made and provided, I shall move, in the circuit court of Henrico county, Virginia for a judgment against you in favor of the Commonwealth of Virginia, for the sum of five hundred and seventy-three and $\frac{97}{100}$ dollars, with interest on $356.10, a part thereof, from the 15th day of December, 1886, and with interest on $217.87, another part thereof, from the 15th day of December, 1887, the sum due by you as a tax-payer in the county of Henrico to the said Commonwealth of Virginia for taxes, together with the penalty thereon, in payment of which papers or instruments purporting to be coupons detached from bonds of the State of Virginia have been tendered and not accepted as payment, and which taxes and penalty have not been otherwise paid—

Due on certain real estate for the year ending 1st of February, 1886, a tax of	$83 10
Personal property for the year ending 1st February, 1886, a tax of	25 04
Income for the year ending 1st of February, 1886, a tax of	230 00
A capitation tax against you for the year ending 1st of February, 1886, as a citizen of said county of Henrico	1 00
Upon the above taxes for the year ending 1st of February, 1886, a penalty of	16 95
And on certain real estate for the year ending 1st of February, 1887, a tax of	84 54
Personal property for the year ending 1st of February, 1887, a tax of	25 56
Income for the year ending 1st of February, 1887, a tax of	96 39
A capitation tax against you as a citizen of said county for the year ending 1st of February, 1887, of	1 00
Upon the above taxes for the year ending 1st of February, 1887, a penalty of	10 38
	$573 97

The said taxes being the same assessed according to law by the Commonwealth of Virginia on real and personal property and income in the county aforesaid.

GEO. W. THOMAS,
For the Commonwealth of Virginia.

Endorsed: Executed by delivering a true copy of the within notice to Joseph Bryan on the 25th day of April, 1888. J. P. Neurohr, D. S. C. H.

And thereupon the said defendant, being solemnly called, came not and on the motion of the said plaintiff the said motion was docketed.

And now at this day, to wit, at the same court, continued by adjournment, and held for the county of Henrico, at the court-house, on the day and year first herein written, to wit, on Tuesday, the 8th day of May, 1888.

COMMONWEALTH OF VIRGINIA, Plaintiff,
against
JOSEPH BRYAN, Defendant.

Motion for $573.97 taxes for the years 1886 and 1887.

This day came as well the plaintiff, by her attorney, as the defendant, by his attorney, and thereupon filed his pleas in writing, numbered 1 and 2.

Pleas.

VIRGINIA:

Circuit Court, Henrico County.

JOSEPH BRYAN *ads.* THE COMMONWEALTH OF VIRGINIA.

4 First plea.

And the said defendant, by his attorney, comes and says that he does not owe the said sum of $573.97 in the said notice specified in manner and form as the said Commonwealth of Virginia hath in said notice of said motion against him in said court set forth.

And of this the said defendant puts himself upon the county.

Second plea.

And for a further plea in this behalf the defendant says that prior to notice of motion herein made, to wit, on the — day of ——, A. A. 188–. and when the taxes herein mentioned became due and payable, he was ready and willing and then tendered to the plaintiff in payment of said taxes coupons cut from bonds issued by the State of Virginia under the provisions of an act of her General Assembly, approved March 30th, 1871, entitled "An act to provide a

plan of settlement of the public debt," to the amount of $570, which are overdue and past maturity, and $3.97 in current money of the United States, aggregating the sum of $573.97, to receive which of the defendant the said plaintiff then wholly refused; and the defendant now brings into court the said sum of money and files with this his plea the said coupons tendered as aforesaid, which he is still ready to pay and turn over to the plaintiff; and the said defendant avers that the said coupons were cut from bonds issued years ago by the State of Virginia, declaring upon their face, in conformity to the laws authorizing their issue, that they were receivable in payment of all taxes, debts, and demands due the Commonwealth.

And this he is ready to verify, etc.

WM. L. ROYALL, *P. D.*

And the said defendant in the first plea having put himself upon the country, the plaintiff doth the like, and issue was joined on said plea; and to the second plea the plaintiff replied generally and put herself upon the country, and the defendant doth the like, and issue was accordingly joined on the said pleas; whereupon came a jury, to wit, C. G. Roper, V. L. Floyd, J. W. Nuckols, Joseph F. Tyler, J. R. Pocklington, J. B. Shaw, John M. King, C. G. Paleske, Andrew Jackson, Henry Johnson, B. F. Lawrence, and J. W. Robinson, who were sworn the truth to speak upon the issue joined, and, having heard the evidence, found the following verdict: "We, the jury, upon the issues joined, find for the Commonwealth the sum of $546.63, with legal interest on $339.14, part thereof, from the 15th day of December, 1886, until this day, and with like interest on $207.49, the residue thereof, from the 15th day of December, 1887, until this day, and with like interest on said aggregate amounts from this day until payment, and with a penalty of five per centum on said sum of five hundred and forty-six $\frac{63}{100}$ dollars ($546.63). Signed C. G. Paleske." And thereupon the said defendant moved the court to set aside the verdict of the jury and grant him a new trial upon the ground that the said verdict is contrary to the law and evidence, which motion the court overruled, and to which ruling of the court the defendant excepted.

Therefore it is considered by the court that the Commonwealth of Virginia recover against the said defendant the principal amount, with interest thereon as aforesaid, and penalty by the jury in their verdict aforesaid ascertained, with interest after the rate of six per centum per annum on the aggregate of said principal and interest from this day until paid, and penalty as aforesaid and the costs in this proceeding.

MEMORANDA.—The defendant excepted to sundry opinions of the court given against him during the progress of the trial, as well as to the opinion of the court overruling his motion to set aside the verdict of the jury and grant him a new trial, and tendered his bills of exception, numbered 1, 2, 3, 4, 5, 6, which were signed and sealed by the court and ordered to be made a part of the record in this case. The defendant's bills of exception are in the following words and figures:

Bill of Exceptions No. 1.

Circuit Court of Henrico County.

COMMONWEALTH OF VIRGINIA *vs.* JOSEPH BRYAN.

Be it remembered that on the trial of this case the Commonwealth, to maintain the issue upon her part, proved that the defendant was duly assessed with and owed to her the sum of $573.97; and thereupon the defendant, to maintain the issue on his part, proved that on the — day of ——, after said taxes were so due by him and before the commencement of his suit, he tendered to the proper collecting officer in payment of his said taxes the coupons and current money set out and described in his plea of tender, which coupons purported on their faces to have been originally attached to bonds issued by the State of Virginia under the provisions of her act of Assembly, approved March 30th, 1871, and each of said coupons was overdue and past maturity, and each one bore upon its face the following language: "Receivable at and after maturity in payment of all taxes, debts, and demands due the State," which said coupons and money said collecting officer refused to receive, and the defendant offered said coupons and money in evidence, and they were received in evidence; and he proved further that the coupons and money so tendered by him amounted together exactly what
6 said Commonwealth claimed of him at the time of said tender.

The defendant then proved that he bought said coupons in the open market from one James P. Cooper, who at the time gave him a written guarantee to save him harmless, and the said Cooper is now in England, having left Virginia in the latter part of December, 1887. Defendant proved further that he did not own the bonds from which said coupons had been cut, and that he did not know who owned them or where they are, and that he knows of no clue by which he could ascertain where they are or who owned them; and then he offered to prove that the State of Virginia issued and put out by authority of said act of March 30th, 1871, bonds numbered serially as said coupons are numbered, and that said bonds when issued bore interest coupons receivable in payment of the State's taxes, which were printed from an engraved plate and not signed manually; but the Commonwealth objected to the defendant being allowed to prove these facts, and the court sustained her objections on the ground that no sufficient foundation had been laid for the introduction of secondary evidence against the defendant's claim that the laws of Virginia which exclude this evidence are repugnant to section ten of article one of the Constitution of the United States, and defendant excepted to said ruling of the court and tendered this his first bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Bill of Exceptions No. 2.

COMMONWEALTH OF VIRGINIA *vs.* JOSEPH BRYAN.

Be it remembered that on the trial of this case, after the evidence had been introduced which is set out in defendant's first bill of exceptions, which is hereby referred to and made a part of this, defendant introduced a witness, one Seaton G. Tinsley, who testified that he had been for sixteen years deputy treasurer of the city of Richmond, Virginia, and then was, and as such it was his duty to collect the taxes due the State; that during that time he had received more than three millions of dollars of the State of Virginia's coupons in payment of her taxes, all of which had been received from him by the auditor of the State in settlement of his accounts, and no one of which had ever been challenged as counterfeit, and he had never heard any one claim that any coupon purporting to be one of the State's coupons was ever counterfeit or spurious.

Thereupon defendant, by counsel, asked the witness the following question: "Have you seen and handled enough of the State of Virginia's tax-receivable coupons to constitute you in your opinion an expert for determining whether any given coupon is one issued by said State or a counterfeit of the same?" To the asking of which question the State of Virginia objected, and the court sustained her objection upon the ground that no sufficient foundation had been laid for secondary evidence against defendant's claim that the
7 law of Virginia which forbade him to ask said question was a law forbidding him to prove the genuineness of her coupons by the testimony of experts, and that it was therefore repugnant to section ten of article one of the Constitution of the United States and to the fourteenth article of amendment to the same, and the defendant excepted to said ruling of the court, and tendered this his second bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Bill of Exceptions No. 3.

COMMONWEALTH OF VIRGINIA *vs.* JOSEPH BRYAN.

Be it remembered that after the facts had been proved that are set out in defendant's first and second bills of exceptions, which are hereby referred to and made a part of this, the court, on motion of the Commonwealth, instructed the jury as follows:

"In the absence of any evidence to prove the genuineness of the coupons alleged to have been tendered by the defendant, the jury are instructed that they should find for the Commonwealth on the plea of tender."

Against defendant's claim that the law of Virginia, which authorizes and requires the court to give said instruction, is repugnant to section ten of article one of the Constitution of the United States and thereupon defendant excepted to the action of the court in giving said instruction, and tendered this his third bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Bill of Exceptions No. 4.

COMMONWEALTH OF VIRGINIA *vs.* JOSEPH BRYAN.

Be it remembered that on the trial of this cause, after the court had given instructions to the jury set out in defendant's third bill of exceptions, which are hereby referred to and made a part of this, defendant moved the court to instruct the jury that the production before them of the coupons filed with his plea of tender and offered in evidence as it is set out in defendant's first bill of exceptions, which is hereby referred to and made a part of this, is *prima facie* evidence that they are the genuine coupons of the State of Virginia cut from bonds issued by her proper officers, but the court refused to instruct the jury as prayed against the claim of the defendant that the laws of Virginia which deny to said coupons the effect of *prima facie* evidence are repugnant to section ten of article one of the Constitution of the United States; to which action of the court in refusing to give said instructions the defendant excepted, and tenders this his fourth bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

8 *Bill of Exceptions No. 5.*

COMMONWEALTH OF VIRGINIA *vs.* JOSEPH BRYAN.

Be it remembered that on the trial of this case, after the court had refused to give the instruction to the jury set out in defendant's fourth bill of exceptions, which is hereby referred to and made a part of this, defendant, by counsel, moved the court to amend the instruction given by it to the jury as set out in defendant's third bill of exceptions, which is hereby referred to and made a part of this; whereupon the court stated to the defendant's counsel in the presence of the jury that he considered the language of the instruction given to be abundantly plain to show that in this case the court intended to instruct the jury that there is no evidence before them upon which they could find a verdict that the coupons filed with defendant's plea are genuine. Thereupon defendant's counsel offered to argue to the jury that there is sufficient evidence before them that said coupons are genuine to warrant them in finding a verdict to that effect, but the court refused to allow the counsel so to argue against his claim that in so doing the court was giving force and effect to a law of Virginia repugnant to section ten, article one, of the Constitution of the United States, and defendant excepted to the court's ruling and action in that behalf, and tendered this his fifth bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Bill of Exceptions No. 6.

COMMONWEALTH OF VIRGINIA *vs.* JOSEPH BRYAN.

Be it remembered that on the trial of this case, after the jury had found their verdict and it had been recorded, the defendant moved the court to set the same aside and grant him a new trial on the ground that said verdict is contrary to the law and the evidence, and the court certifies that all the evidence in the case is set out in defendant's first and second bills of exception, which are hereby referred to and made a part of this; but the court, for reasons in writing filed in the papers and made a part of the record, refused to set the same aside and grant him a new trial against defendant's claim that in doing so the court was giving force and effect to a law of Virginia repugnant to section ten of article one of the Constitution of the United States and to the fourteenth article of amendment to the same, and the defendant excepted to said ruling and action of the court, and tendered this his sixth bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

A true transcript of the record.
Teste: SAMUEL P. WADDILL, *D. C.*

Fee for this transcript, $4.25.
Teste: GEO. K. TAYLOR, *C. C.*

9 And now at this day, to wit, at a supreme court of appeals held at the State court-house, in the city of Richmond, on Thursday, the 6th of December, 1888, came again as well the plaintiff in error, by his counsel, as the attorney general on behalf of the Commonwealth, and the court, having maturely considered the transcript of the record of the judgment aforesaid and the argument of counsel, is of opinion, for reasons stated in writing and filed with the record, that there is no error in the said judgment. It is therefore considered that the same be affirmed, and that the Commonwealth recover against the plaintiff in error damages according to law, and also her costs by her about her defence herein expended, which is ordered to be certified to the said circuit court of the county of Henrico.

The following is a copy of the opinion of the court:

10 *Opinion.*

BRYAN *vs.* COMMONWEALTH.

LACY, *J.*:

This is a writ of error to a judgment of the circuit court of Henrico county, rendered on the 8th day of May, 1888. The action was brought under the act of Assembly of May 12th, 1888, entitled "An act to provide for the recovery, by motion, of taxes and certain debts due the Commonwealth, for the payment of which papers purport-

ing to be genuine coupons of the Commonwealth have been tendered."

At the trial of the case the defendant was required to produce the bonds from which the bonds in question had been cut in order to test their genuineness in the mode prescribed by law by the act
11 of January 26th, 1888, entitled "An act to prescribe a rule of evidence in certain cases." But the defendant insisted that this law was repugnant to the tenth section of article first of the Constitution of the United States and impaired the obligation of the contract of the State with him, and offered other secondary evidence which the court rejected, and he excepted.

The validity of this act is sustained by repeated decisions of this Court. (Commonwealth *v.* Weller & Sons, 82 Va., 721; McGahey *v.* Commonwealth, just decided, and the cases there cited.)

We are of opinion that there is no error in the said judg-
12 ment of the circuit court of Henrico county, and the same is affirmed.

A true transcript.

Teste: GEO. K. TAYLOR, *C. C.*

Fee for transcript, $2.70.

STATE OF VIRGINIA, *City of Richmond,* } *To wit:*

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that the foregoing is a true transcript of the record and proceedings upon a writ of error lately pending in said court, in which Joseph Bryan was plaintiff in error and The Commonwealth of Virginia was defendant in error.

In testimony whereof I hereto set my hand and annex the seal of said court this 20th day of December, 1888.

[Seal Supreme Court of Appeals of Virginia, Richmond.]

GEO. K. TAYLOR, *Clerk.*

13 To the judges of the Supreme Court of the United States:

Your petitioner, Joseph Bryan, respectfully represents that he owed the State of Virginia the sum of $573.97 as taxes for the years 1886–'87; that he tendered her proper collecting officer in payment thereof in due time five hundred and seventy dollars of coupons and three dollars and ninety-seven cents in lawful money of the United States, the two together constituting all of said State's claim; that each one of said coupons was cut from a bond issued by the State of Virginia as and for her bond, and each one was overdue and past maturity, and each one bore on its face the contract of said State that it would be received in payment of all taxes, debts, and demands due to her; that said tender was refused; that thereafter said collecting officer reported said tender and refusal to the attorney for the Commonwealth of Henrico county; that
14 after said report to said Commonwealth's attorney he instituted a suit in the circuit court of Henrico county against your petitioner in the name of the State of Virginia for said sum of

$573.97 under the provisions of the act of May 12th, 1887; that your petitioner appeared and pleaded that he had tendered said coupons and money in payment of said taxes, and at the trial he proved that he did not own the bonds from which said coupons were cut and he did not know who owned the same or where they then were, and he offered to prove by the testimony of an expert witness that they were genuine coupons; but the court ruled that he could not prove them genuine unless he produced the bonds from which they came against petitioner's claim that the laws of Virginia which required him to produce said bonds and refused him permission to prove them genuine by the testimony of experts were repugnant to the Constitution of the United States. Thereupon the jury found a verdict against your petitioner and judgment
15 was entered against him. Your petitioner appealed to the supreme court of appeals for the State of Virginia, which affirmed said judgment; all which will appear by a certified copy of the record of said cause presented herewith. Your petitioner now prays a writ of error to said judgment of said supreme court of appeals and a reversal of the same.

PETITIONER,
By his attorney, WM. L. ROYALL.

[Endorsed:] Bryan *v.* Commonwealth. Petition for writ of error.

16 *Assignment of Errors.*

JOSEPH BRYAN *v.* THE STATE OF VIRGINIA.

Plaintiff in error assigns for error—

First. The action of the circuit court of Henrico county, affirmed by the supreme court of appeals of Virginia, in refusing to allow him to prove that the State of Virginia issued and put out bonds numbered serially as his coupons were numbered, as certified in his first bill of exceptions.

Second. The action of said circuit court, affirmed by said supreme court of appeals, in refusing to allow him to ask the witness, Seaton G. Tinsley, the question certified by the court in his second bill of exceptions.

17 Third. The action of said circuit court, affirmed by said supreme court, in giving the jury the instructions certified in his third bill of exceptions.

Fourth. The action of said circuit court, affirmed by said supreme court, in refusing to instruct the jury that the production before them of said coupons was *prima facie* evidence of their genuineness, as certified in his fourth bill of exceptions.

Fifth. The action of said circuit court, affirmed by said supreme court, in refusing to allow his counsel to argue to the jury that there was sufficient evidence before them to warrant them in finding a verdict that said coupons were genuine, as certified in his fifth bill of exceptions.

18 Sixth. The action of said circuit court, affirmed by said supreme court, in refusing to set aside the verdict of the jury and grant him a new trial, as certified in his sixth bill of exceptions.

PLAINTIFF IN ERROR,
By his attorney, WM. L. ROYALL.

[Endorsed:] Assignment of errors. Bryan *v.* Commonwealth.

19 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the supreme court of appeals of the State of Virginia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of appeals before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Joseph Bryan, plaintiff in error, and The State of Virginia, defendant in error, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of or an authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the

20 Constitution or of a treaty or statute of or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said plaintiff in error, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court, the seventeenth day of December, in the year of our Lord one thousand eight hundred and eighty-eight.

[Seal of the Supreme Court of the United States.]

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

Allowed by—
JOHN M. HARLAN,
Justice Sup. C't U. S.

21 VIRGINIA:

In the clerk's office of the supreme court of appeals of Virginia, at Richmond, December 21st, 1888.

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that a copy of the within writ is on file in my office.

Given under my hand this 21st December, 1888.

GEO. K. TAYLOR, *Clk.*

22 The United States of America to the State of Virginia, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the supreme court of appeals of the State of Virginia, wherein Joseph Bryan is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable John M. Harlan, associate justice of the Supreme Court of the United States, this seventeenth day of December, in the year of our Lord one thousand eight hundred and eighty-eight.

JOHN M. HARLAN,
Justice Sup. C't U. S.

23 On this 21st day of December, in the year of our Lord one thousand eight hundred and eighty-eight, personally appeared Wm. L. Royall before me, the subscriber, a notary public for the city of Richmond, Virginia, in my city aforesaid, and makes oath that he delivered a true copy of the within citation to Fitzhugh Lee, Governor of Virginia, and one to R. A. Ayers, attorney general of Virginia, on the 20th day of December, 1888.

WM. L. ROYALL.

Sworn to and subscribed the 21st day of December, 1888.

A. B. SINYON, *N. P.*

VIRGINIA:

In the clerk's office of the supreme court of appeals of Virginia, at Richmond, December 21st, 1888.

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that a copy of the within citation is on file in my office.

Given under my hand this 21st December, 1888.

GEO. K. TAYLOR, *Clk.*

24 Know all men by these presents that we, James P. Cooper and William L. Royall, are held and firmly bound unto the State of Virginia in the just and full sum of five hundred dollars, to be paid to the said State of Virginia, certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this twelfth day of December, in the year of our Lord one thousand eight hundred and eighty-eight.

Whereas lately, at a supreme court of appeals for the State of Virginia, in a suit depending in said court between Joseph Bryan, plaintiff in error, and The State of Virginia, defendant in error, a judgment was rendered against the said Joseph Bryan, and the said Joseph Bryan having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said State of Virginia, citing and admonishing her to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next:

Now, the condition of the above obligation is such that if the said Joseph Bryan shall prosecute his writ of error to effect and answer all damages and costs if he fail to make his plea good, then the
25 above obligation to be void; else to remain in full force and virtue.

Sealed and delivered in presence of—

JAMES P. COOPER. [SEAL.]
WM. L. ROYALL. [SEAL.]
—— ——. [SEAL.]

Approved by—
JOHN M. HARLAN,
Justice Sup. C't U. S.

Dec. 17, '88.

VIRGINIA:

In the clerk's office of the supreme court of appeals of Virginia, at Richmond, December 21st, 1888.

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that the original bond, of which the foregoing is a copy, is on file in my office.

Given under my hand this 21st December, 1888.

GEO. K. TAYLOR, *Clk.*

Endorsed on cover: Virginia supreme court of appeals. No. 1458. Joseph Bryan, plaintiff in error, *vs.* The State of Virginia. Filed December 26, 1888.